=S.B.CIVIL WRIT PETITION NO.1067/1994

Managing Director, Ganganagar Sahkari Spinning Mills Limited, Hanumangarh
v.
State of Rajasthan & Ors.

DATE OF ORDER :: 8th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajesh Joshi, for the petitioner.
Mr. S.S.Ladrecha, Additional Government Advocate.
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This petition for writ is preferred to challenge validity, propriety and correctness of the award dated 27.1.1993 passed by the Labour Court, Bikaner in Industrial Dispute No.20/88.

The appropriate government by its notification dated 8.1.1988 referred an industrial dispute for its adjudication to the Labour Court, Bikaner in following terms:-

> "क्या प्रबन्ध संचालक, दी गंगानगर सहकारी स्पिनिंग मिल, हनुमानगढ़ जक्शन द्वारा अपने श्रमिक श्री गोपालसिंह पुत्र श्री फतेहसिंह (निवासी जाति राजपूत) (सुरक्षा चौकीदार) निवासी ग्राम लूनासर पोस्ट पल्लू वाया रावतसर तहसील नोहर जिला श्रीगंगानगर) को दिनांक 3.1.86 को सेवा से पृथक करना अनुचित एवं अवैध है ? यदि हां तो श्रमिक किस राहत का अधिकारी है ?"

In statement of claim case of the respondent workman was that under a memorandum dated 23.9.1985 an allegation was levelled against him that in the night 16.9.1985 while working as Security Guard he left the duties by 2.45 hours prior to due duty hours and that amounts a misconduct. By an another charge sheet dated 30.9.1985 the allegation of leaving the duties an hour earlier without prior information was made against him. After an inquiry he was found guilty for the misconduct alleged, accordingly was removed from service under an order dated 3.1.1986.

The order of removal dated 3.1.1986 was subject matter of dispute sought to be adjudicated by the Labour Court under the reference dated 8.1.1988. The Labour Court found the inquiry fair and also held that the respondent workman was rightly found guilty by the employer for the misconduct alleged, however, the penalty of removal was substituted by the penalty of suspension for a period of four days. Learned Labour Court modified the penalty on the count that leaving duty before regular duty hours without approval amounts to a minor misconduct as defined under clause (26) of the Standing orders applicable to the Ganganagar Sahkari Spinning Mills Ltd., Hanumangarh and for such minor misconduct no penalty except fine, warning or suspension for a period of four days could have been imposed.

While giving challenge to the award impugned the contention of counsel for the petitioner is that there was no occasion for the Labour Court to interfere with the penalty as the respondent workman was working as Security Guard and the misconduct for which he was found guilty is quite serious.

I do not find any substance in the contention so raised. From perusal of the applicable Standing Orders it is apparent that leaving of duties without approval prior to regular working hours is a minor misconduct and for that no penalty except imposition of fine, warning or suspension for a period of four days could have been imposed as prescribed under clause (26) of the Standing Orders. The Labour Court, therefore, rightly interfered with the penalty of removal being without jurisdiction. However, at the same time I am is of the view that a Security Guard should always be vigilant and, therefore, the punishment of suspension for a period of four days as substituted by the Labour Court is quite lesser looking to the gravity of the misconduct proved. Accordingly, with penalty of suspension for a period of four days I also consider it appropriate to impose a penalty of fine upon the petitioner. To determine the fine, I consider it appropriate to reduce the complete back wages awarded by the Labour Court by 50% and that too also with interest @ 6.5% instead of 12% per annum as ordered by the Labour Court.

Accordingly, the writ petition is disposed of with the modifications in the terms above.

(GOVIND MATHUR),J.

Kkm/ps.